IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2682 OF 2005

Shivaji Shankar Ghuge ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr.B.P. Abhale, for the Applicant.

Mr.A.S. Gadkari, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

28th April 2005

P.C.:

. Heard Counsel for the parties. Perused the record produced by the learned A.P.P. It is seen that the only evidence collected so far to proceed against the Applicant is that allegedly the Applicant had illicit relation with Sakhubai, with whom the deceased also had some illicit relation and that is the motive behind the murder of the deceased. No other evidence is

forthcoming to indicate the participation of the Applicant in the commission of the crime. The only other piece of evidence collected so far is recovery of weapon from the scene of offence. However, there is nothing to show that the said weapon was used by the Applicant. No finger prints are found on the weapon. No other traces are found so as to indicate the complicity of the Applicant in the commission of the offence. If that is the state of evidence on record, prima facie, there is no legal evidence to indicate the complicity of the Applicant in the commission of the offence. Mere motive by itself cannot be the basis to record finding of guilt even if established. Besides, the Applicant is above 60 years of age and there are no other antecedents. In the circumstances, the Applicant is entitled to be released on bail on the following conditions.

(A) The Applicant is directed to be released on bail in connection with offence registered as CR.No.I-35/2005 with Malegaon Taluka Police Station on executing personal bond in the sum of

Rs.15,000/- (Rupees Fifteen thousand only) with two local sureties in the like amount.

(B) The Applicant shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(C) The Applicant shall report to the concerned Police Station twice a week on Wednesday and Sunday between 10 a.m. to 1 p.m. till the filing of the charge sheet and co-operate with the investigation in all respects as and when called upon.

(D) The Applicant shall not leave the jurisdiction of Malegaon Taluka Police Station without prior intimation to the investigating officer as well as the lower Court.

(E) The Applicant shall co-operate for the early disposal of the trial. If the

trial Court is of the opinion that the Applicant is responsible in any manner for the delay in disposal of the trial, that opinion be recorded in the roznama, which can be a ground for cancellation of bail.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)